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BEFORE THE  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268-0001

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POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

MAILING ONLINE SERVICE

Docket No. MC98-1

MOTION BY  
MAIL ADVERTISING SERVICE ASSOCIATION INTERNATIONAL  
TO EXTEND TIME FOR PREHEARING STATEMENTS  
AND CONTINUE PREHEARING CONFERENCE

Mail Advertising Service Association International ("MASA") hereby moves for an extension of time for prehearing filings from August 12, 1998, until August 21, 1998, and for a continuance of the prehearing conference to August 25, 1998, from the current date of August 14, 1998.

On July 15, 1998, the Postal Service filed with the Postal Rate Commission ("PRC") a request for recommended decision ("Request") on a proposed market test classification and fee schedule, and an experimental classification and fee schedule, for a service it calls Mailing Online ("MOL"). The Request was filed under the expedited procedures of Rule 67a and Rule 161, and was accompanied by a motion to shorten even further than contemplated by Rule 161, the expedited time period for reaching a determination of its market test request.

The PRC issued a Notice and Order two days later, on July 17, 1998, providing notice of the Postal Service filing and setting August 12, 1998 as the date for expedited filings with the PRC, and August 14, 1998, as the date for the prehearing conference in the case. Under this schedule, August 12<sup>th</sup> is the deadline for filing with the PRC, the following



- (i) intervenors' requests to conduct a hearing on the Postal Service's Request to conduct a market test, which must be accompanied by a statement of facts the intervenor intends to dispute and the evidence to be offered in support of its position as required by Rule 163(e);
- (ii) intervenors' statements of issues presented by the Postal Service's Request for *experimental classification* as required by Rule 67a(b);
- (iii) intervenors' responses to the Postal Service's motion for expedition and waiver of certain provisions of Rule 161 and Rule 64(h).

August 12<sup>th</sup> is also the date by which notices of intervention must be filed. The Notice and Order further provides that the Postal Service is to respond within 10 days to any interrogatory served upon it prior to August 12<sup>th</sup>.

MASA respectfully requests a modification of this schedule in order to provide the necessary time to comply with the substantive filing requirements of the Notice and Order and to take into account the Postal Service's responses to preliminary interrogatories. The Postal Service invoked the expedited procedures available under the PRC rules for market test and experimental classifications and fees. These rules shorten the time for determination of the Postal Service Request and potentially relieve it of various substantive requirements imposed by the usual rules governing requests for permanent changes in classifications, rates and fees. Notwithstanding the expedited procedures, the substance of the Request raises substantial and difficult questions that must be addressed in a considered and deliberate manner out of fairness to the parties. Among other things, it is apparent that the Request seeks PRC approval of a service in which the Postal Service would, in effect, provide printing and other services now provided by lettershops and other third party providers, and that these services are outside the

area of the Postal Service's core functions of processing and delivering the mail. Its filing is, however, almost barren of any consideration of the effect of the proposed service on businesses such as MASA members that already provide many of the printing and other services proposed to be provided as a part of MOL.

As a purely procedural matter, the time schedule set by the Notice and Order does not provide sufficient time for the parties to develop in a considered and deliberate manner the issues that must be addressed in this proceeding. Not does it provide sufficient time for the parties to state and support their positions on the various matters that are raised by the Postal Service motion for waiver, by the invocation of the experimental and market test rules, and by the substance of the Request itself. For example, although MASA has served interrogatories on certain Postal Service witnesses (and anticipates serving additional interrogatories before August 12<sup>th</sup>), the responses are not due until August 14<sup>th</sup>, the day of the prehearing conference, and two days *after* the date of the filings required by the Notice and Order. Accordingly, MASA (and other intervenors) would not have time to receive interrogatory responses and to take them into account in formulating the issues that are genuinely in dispute and must be litigated at a hearing. This would appear to defeat the purpose of shortening interrogatory response times in advance of the prehearing conference as required by the Notice and Order.

Undoubtedly, the Postal Service will argue against any extension on the grounds that its objective is to implement its market test in September of this year and to have a recommended decision on the experimental classification by no later than November so that it can be implemented in January of next year. The answer to this is straightforward – the Postal Service itself was in sole control of the timing of its Request. It filed the Request at the end of

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July, just as many of the parties whose interests are affected and whose expert input is necessary in formulating a position were leaving on summer vacation. Moreover, the Postal Service filed at a time when, according to its own internal needs, it was necessary to request that the PRC shorten even more than provided in the market test rules the time for conducting the proceeding and reaching a decision. It provides no explanation as to why it was unable to file earlier, so that the normal expedited rules could have accommodated its internal timeline, nor does it offer any reason why the parties, such as MASA, whose interests are at stake should be penalized by the time squeeze its own delay has created.

Adopting the time extension proposed here will enable the intervenors to formulate considered responses on the matters covered by the PRC Notice and Order, taking into account the Postal Service's responses to preliminary interrogatories. It is consistent with the Postal Service's claimed need for expedition and with the existing rules for market test and experimental classifications. And, assuming the PRC approves the Postal Service Request over any objections from the parties, it is still possible to implement any recommended decision in the time frame desired by the Postal Service.<sup>1</sup>

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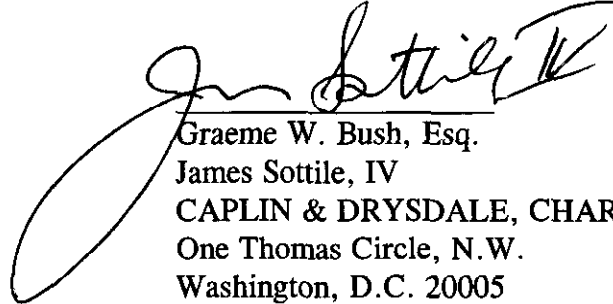
<sup>1</sup> MASA notes, out of candor at this stage, that it has grave doubts about the propriety of invoking the market test rules in these circumstances, let alone asking that the timing of a market test decision be so foreshortened. The market test rules by their terms can be invoked only in connection with a simultaneous filing for permanent rates and classifications. The express purpose of the market test is to develop information necessary to support a permanent change. *Rule 161(a)*. The market test contemplated by the Request plainly does not satisfy the express requirements of the Rule, inasmuch as it forthrightly is not a part of a permanent filing and is accompanied by a Postal Service motion for waiver of this aspect of Rule 161. But it does not even satisfy a similar purpose with respect to the experimental classification request of which it is a part – although the Postal Service argues that the market test would provide “real world” experience, it does not argue that the test would enable it to satisfy any filing requirements for the experimental classification. *See Motion of the United States Postal Service for Expedition, and for Waiver of Certain Provisions of Rule 161 and Certain Provisions of Rule 64(h) at 2-5.*

In contrast to the market test rules, the experimental rules contemplate a service that is truly in the experimental stage in terms of the services that are to be offered and the array of features that accompany the service. Whether or not the Request should ultimately be recommended by the Commission, it appears that it is at least properly considered by the Commission under the experimental rules.

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For the foregoing reasons, MASA requests that the date for filing responses set forth in paragraphs 3, 4, and 5 of the Notice and Order be extended to and including August 21, 1998, and that the date for the prehearing conference be continued to August 25, 1998.

Respectfully submitted,



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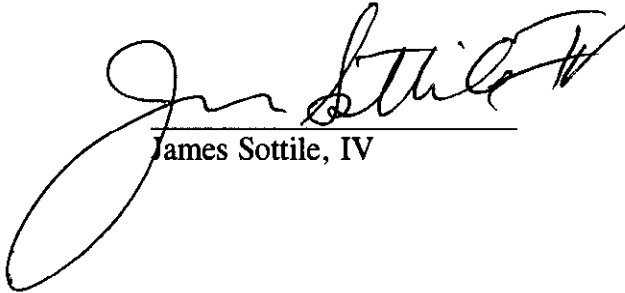
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It bears noting, in light of the above, that much of the immediate time pressure is created by the market test request, which may very well be improvidently filed.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing motion was served by first class mail on the parties on the attached service list this 6th day of August 1998.



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